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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,096	08/05/2003	Alan R. Winslow	WEYE120576/25067	6995

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EXAMINER

FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/635,096	WINSLOW, ALAN R.	
	Examiner	Art Unit	
	José A Fortuna	1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because figures 2-6 and 11A-11B are not considered figures but Tables. It is suggested to include the Tables as part of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaschinski et al., WO 00/50462.

Jaschinski et al. teach oxidized cellulose containing fibrous material in which the cellulose-containing fibrous material is oxidized into aldehyde and/or carboxy groups. The fibrous materials can be used; either alone or in combination with non-treated fibers, to make multi-layered and/or multi-ply tissues, see abstract and page 12, lines 1-15 and pages 17-19.

Jaschinski et al. teach on page 12, lines 1-15 that the aldehyde groups contribute to the wet strength and the carboxy groups contribute to the dry strength of the fibrous web. The total content of aldehyde and/or carboxy groups is within the claimed range, i.e., preferably more than 50 $\mu\text{m/g}$, see page 16, 2nd paragraph. Jaschinski et al. teach also that other wet strength agents can be added to further improve the strength of the web, such as polyamine-amido-epichlorohydrin resin, (same as claimed), and that other fibers can be added to form the tissue, preferably up to 95%, page 17, 2nd paragraph. The amount of oxidizing agent is within the claimed range, see page 22, 2nd paragraph and the starting pulps for the oxidized cellulosic fibers or the secondary fibers are disclosed on pages 31-33, and includes the same type of pulp as claimed, TMP, CTMP, HTCTMP, chemical pulps either bleached or unbleached, hardwood and/or softwood. The examples include the use of well-known papermaking additives, such as Kymene and CMC, for strength, see page 60, first paragraph, same as claimed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jewell et al., US Patent No. 6,379,494.

Jewell et al. teach a method of making carboxylated cellulose fibers by the nitroxyl oxidation of the cellulose, Specially to 6th Carbon, C (6). The carboxy content of the pulp falls within the claimed range, see for example the Tables, and more specifically Tables 2-4. Jewell et al. teach that the fibers can be used to make tissues, column 4, lines 1-14 and in column 6, lines 26-41, they teach that the carboxylated fibers can be used in combination with other fibers, non-treated, in amounts from 0.5 to 100% and that other papermaking additives can be used to improved the properties of the product. Jewell et al. are silent with respect to the formation of a multi-layered and/or multi-ply product. However, making multi-layered and/or multi-ply products is conventional in the art, see for example Jaschinski et al. explained above, and therefore, making a multi-layered product using the fibers taught by Jewell et al. would have been obvious to one of ordinary skill in the art. Note that one of ordinary skill in the art would have reasonable expectation of success if the fibers disclosed by the reference, Jewell et al., are used to make a multi-layered and/or multi-ply product, since as explained above, making such layered product is very well known in the art.

Conclusion

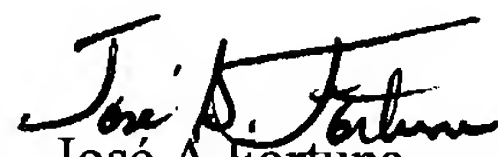
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of "Using carboxylated Fibers for Making Multi-layer and/or Multi-ply Tissues."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


José A Fortuna
Primary Examiner
Art Unit 1731

JAF